

REMARKS

The prior reply of July 11, 2003 has been labeled "not responsive" because according to the Examiner, "Applicants have not specifically pointed out how the limitations recited in new claim 16 patentably distinguish over the prior art used in the prior Office Action."

Accordingly, Applicants are now responding as though New Claim 16 has already been rejected based on the art previously cited against now cancelled claims 1-15. Accordingly it is understood that Claim 16 is deemed by the Examiner to have been anticipated by Lewellyn 5,516,435 under 35 U.S.C. §102(b) and rendered patentably obvious by Lewellyn 5,516,435 under 35 U.S.C. §103(a).

Claim 16, as previously presented, reads as follows:

16. A method for treating Bayer Process liquor containing red mud comprising
  - (a) adding to the liquor a soluble synthetic flocculant and starch, wherein said soluble synthetic flocculant is selected from the group consisting of
    - (i) homopolymers of acrylic acid,
    - (ii) copolymers of acrylic acid and acrylamide,
    - (iii) copolymers of acrylic acid and acrylamide modified to contain a hydroxamic acid moiety; and
    - (iv) copolymers of acrylic acid and acrylamide modified to contain an acrylic acid moiety; and
  - (b) adding to the liquor dextran; wherein the soluble synthetic flocculant and starch are added to the liquor prior to the addition of the dextran, and wherein no additional synthetic flocculant is added to the liquor; and then

(c) removing the red mud contained in the Bayer process liquor by sedimentation, centrifugation or filtration.

Applicants submit that the Lewellyn reference cannot be used to render the instant claimed invention either anticipated or obvious because the Lewellyn reference does not disclose, teach or suggest the instant claimed invention. The Lewellyn reference is silent about the order of addition of the ingredients and is silent about the beneficial effect of all three ingredients being present and is silent about not having an additional flocculant present.

The Examiner's position is that "It would have been obvious to one skilled in the art of liquid purification to modify the method of Lewellyn by adding the recited amount and by using the separate and sequential addition, depending on the specific process liquor treated and results desired, absent a sufficient showing of unexpected results." Applicants respectfully dispute the statement because Applicants are unaware of any case law or Patent Rule or Federal Law that supports an Examiner's position that making a modification in a known process would be obvious, absent a suggestion to make the modification in a reference published more than one year in advance of the filing date of the instant patent application. Applicants respectfully request clarification as to what law, regulation, rule, procedure or reference the Examiner is relying up to state that the instant claimed invention is obvious.

Nevertheless, Applicants' response to the statement is as follows: Applicants regard their invention as novel and unobvious because no one else had discovered this invention first, no reference has been located that suggested making this modification, and once the modification was made, the modification was found to yield acceptable, improved results.

Regarding the need for "comparative examples", Applicants respectfully direct the Examiner's attention to Table 3, page 13 wherein Applicants have reported the results of a series of tests that conclusively show that

the synergistic effect of the three components being added in the claimed order of addition and with all three ingredients being present; provides *markedly improved* results relative to those examples where any one of the three ingredients is left out.

Accordingly, Applicants believe they have fully and completely responded to any rejection based on Lewellyn and respectfully request that this rejection be withdrawn and that a Notice of Allowance be sent for Claim 16.

#### CONCLUSION

Applicants submit that based upon the Remarks in this Response, that Claim 16 is in condition for Allowance and courteously request that a Notice of Allowance is sent for this claim.

Respectfully submitted,

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